

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-20673 (NEW SERIES)

DATE OF FINAL PASSAGE JULY 19, 2016

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0602 AND 126.0604; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0720, 143.0725, 143.0730, 143.0740, AND BY ADDING NEW SECTION 143.0745; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 151.0201; AND BY AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 156.0309, ALL RELATING TO AFFORDABLE HOUSING DENSITY BONUS.

§126.0602 When a Planned Development Permit May be Requested

- (a) [No change in text.]
- (b) The following types of *development* may be requested with a Planned Development Permit to be decided in accordance with Process Four.
 - (1) through (2) [No change in text.]
 - (3) Provision of off-site affordable *dwelling units* in accordance with Section 143.0745.
- (c) [No change in text.]

§126.0604 Findings for Planned Development Permit Approval

A Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0604(a) and the supplemental *findings* in Section 126.0604(b)-(c) that are applicable to the proposed *development* as specified in this section.

(a) through (b) [No change in text.]

(c) Supplemental Findings--Off-site Affordable Dwelling Units

A development using the Affordable Housing Density Bonus Regulations that proposes to locate affordable dwelling units off-site in accordance with Section 143.0745(b) may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0604(a):

(1) The location of the off-site affordable dwelling units will provide comparable or superior access to transit. Factors to be considered include, but are not limited to, the number, frequency, and destination of transit routes within one-half mile of the development.

(2) The location of the off-site affordable dwelling units will provide comparable or superior access to employment opportunities. Factors to be considered include, but are not limited to, distances and transit availability to regional centers, subregional employment areas and industrial areas;

- (3) For non-age restricted *development*, the location of the off-site affordable *dwelling units* will provide comparable or superior access to *schools*. Factors to be considered include, but are not limited to, the number of *schools*, the educational levels of the *schools*, whether the *schools* are private or public, whether the *schools* are vocational, and the travelling distances between the *schools* and the *development*; and
- (4) The off-site affordable *dwelling units* are located in a census tract with an average income level that is no more than 5% lower than the census tract of the *development*.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

- (a) [No change in text.]
- (b) The *density* bonus units authorized by this ~~d~~Division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13, provided that the affordability restrictions, term of affordability, occupancy, and rents charged under the *density* bonus regulations provide greater affordability than those within the Inclusionary Housing Regulations.
- (c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
 - (1) *Low income*—At least 10 percent of the ~~pre-*density*~~ bonus units in the ~~*development*~~ shall be affordable, including an allowance for

utilities, to ~~low income~~ households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size; or Very low income - At least 5 percent of the pre-density bonus units in the development shall be affordable, including an allowance for utilities, to very low income households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size; or

- (2) Very low income—At least 5 percent of the pre-density bonus units in the development shall be affordable, including an allowance for utilities, to very low income households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for assumed household size. Low income - At least 10 percent of the pre-density bonus units in the development shall be affordable, including an allowance for utilities, to low income households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.

(3) through (4) [No change in text.]

- (d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

- (1) Very low income - At least 5 percent of the pre-density bonus units in the development shall be affordable, including an allowance for utilities, to very low income households at a rent that does not

exceed 30 percent of 50 percent of the area median income, as
adjusted for household size.

- (2) Low income - At least 10 percent of the *pre-density* bonus units in
the development shall be affordable, including an allowance for
utilities, to low income households at a rent that does not exceed 30
percent of 60 percent of the area median income, as adjusted for
household size.
- (13) *Moderate income* - At least 10 percent of the total *dwelling units* in
a common interest development, as defined in California Civil
Code Section 4100, shall be affordable, provided that all *dwelling
units* in the *development* are offered to the public for purchase.
- (24) The initial occupant of all for-sale affordable ~~housing units~~
dwelling units shall be a *very low income*, *low income*, or
moderate income household.
- (35) Prior to, or concurrent with, the sale of each *density* bonus
affordable unit, the *applicant* shall require the buyer to execute and
deliver a promissory note in favor of the San Diego Housing
Commission so that the repayment of any initial subsidy is
ensured.
- (46) Each for-sale unit shall be occupied by the initial owner at all times
until the resale of the unit.
- (57) Upon the first resale of a unit, the seller shall comply with all
conditions regarding the sale of a unit, as applied by the San Diego

Housing Commission, and as set forth in California Government Code Section 65915(c)(2).

(68) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.

(e) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

(1) [No change in text.]

(2) ~~The Rental~~ *dwelling units* shall remain available for a period of at least ~~30~~ 55 years or longer as may be required by other laws.

(f) through (h) [No change in text.]

§143.0725 Density Bonus Provisions

A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

(a) [No change in text.]

(b) For *development* meeting the criteria for very *low income* in Section 143.0720(c)(1), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this ~~d~~Division, up to a maximum combined *density* increase of ~~35~~ 50 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the

maximum allowable *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).

- (c) For *development* meeting the criteria for ~~very~~ *low income* in Section 143.0720(c)(2), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this ~~d~~Division, up to a maximum combined *density* increase of ~~35~~ 50 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable ~~floor area ratio~~ *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).
- (d) For *development* meeting the criteria for *moderate income* in Section 143.0720(d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this ~~d~~Division, up to a maximum combined *density* increase of ~~35~~ 50 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable ~~floor area ratio~~ *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).

(e) through (g) [No change in text.]

§143.0730 Density Bonus in Exchange for Donation of Land

An *applicant* for a *tentative map*, *parcel map*, or residential *development* permit, may donate and transfer land to the City for *development* with affordable ~~housing~~

~~units~~ dwelling units, in exchange for a *density* bonus, in accordance with this
~~d~~Division and pursuant to State Density Bonus Law.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State Density Bonus Law and as set forth in this Section.

(a) through (c) [No change in text.]

(d) The number of incentives available are identified in Table 143-07A for *very low income* households, Table 143-07B for ~~very low income~~ households, and Table 143-07C for *moderate income* households consistent with the percentage of pre-*density* bonus units identified in the first column ~~one~~ of each table.

Table 143-07BA
Very Low Income Density Bonus
Households

| Percent <i>Very Low Income</i> Units | Percent <i>Density</i> Bonus | Number of Incentives |
|--------------------------------------|------------------------------|----------------------|
| 5 | 20 | 1 |
| 6 | 22.5 | 1 |
| 7 | 25 | 1 |
| 8 | 27.5 | 1 |
| 9 | 30 | 1 |
| 10 | 32.5 | 2 |
| 11 –14 | 35 | 2 |
| <u>12</u> | <u>38.75</u> | <u>3</u> |
| <u>13</u> | <u>42.5</u> | <u>4</u> |
| <u>14</u> | <u>46.25</u> | <u>4</u> |
| ≥ 15 | <u>35-50</u> | <u>5</u> |

Table 143-07A
Low Income Density Bonus
Households

| Percent <i>Low Income</i> Units | Percent <i>Density</i> Bonus | Number of Incentives |
|------------------------------------|---------------------------------|----------------------|
| 10 | 20 | 1 |
| 11 | 21.5 | 1 |
| 12 | 23 | 1 |
| 13 | 24.5 | 1 |
| 14 | 26 | 1 |
| 15 | 27.5 | 1 |
| 16 | 29 | 1 |
| 17 | 30.5 | 1 |
| 18 | 32 | 1 |
| 19 | 33.5 | 1 |
| 20 – 29 | 35 | 2 |
| <u>21</u> | <u>38.75</u> | <u>2</u> |
| <u>22</u> | <u>42.5</u> | <u>2</u> |
| <u>23</u> | <u>46.25</u> | <u>2</u> |
| <u>≥ 24 – 29</u> | <u>50</u> | <u>2</u> |
| <u>≥ 30</u> | <u>35 50</u> | 3 |
| <u>31– 32</u> | <u>50</u> | <u>4</u> |
| <u>≥ 33</u> | <u>50</u> | <u>5</u> |

Table 143-07C
Moderate Income Density Bonus
Households

| Percent <i>Moderate</i> <i>Income</i> Units | Percent <i>Density</i> Bonus | Number of Incentives |
|--|---------------------------------|----------------------|
| 10 | 5 | 1 |
| 11 | 6 | 1 |
| 12 | 7 | 1 |
| 13 | 8 | 1 |
| 14 | 9 | 1 |
| 15 | 10 | 1 |
| 16 | 11 | 1 |
| 17 | 12 | 1 |
| 18 | 13 | 1 |
| 19 | 14 | 1 |
| 20 | 15 | 2 |
| 21 | 16 | 2 |

Table 143-07C
Moderate Income Density Bonus
Households

| Percent <i>Moderate</i> <i>Income</i> Units | Percent <i>Density</i> Bonus | Number of Incentives |
|--|---------------------------------|----------------------|
| 22 | 17 | 2 |
| 23 | 18 | 2 |
| 24 | 19 | 2 |
| 25 | 20 | 2 |
| 26 | 21 | 2 |
| 27 | 22 | 2 |
| 28 | 23 | 2 |
| 29 | 24 | 2 |
| 30 | 25 | 3 |
| 31 | 26 | 3 4 |
| 32 | 27 | 3 4 |
| 33 | 28 | 3 5 |
| 34 | 29 | 3 5 |
| 35 | 30 | 3 5 |
| 36 | 31 | 3 5 |
| 37 | 32 | 3 5 |
| 38 | 33 | 3 5 |
| 39 | 34 | 3 5 |
| 40 | 35 | 3 5 |
| <u>41</u> | <u>38.75</u> | <u>5</u> |
| <u>42</u> | <u>42.5</u> | <u>5</u> |
| <u>43</u> | <u>46.25</u> | <u>5</u> |
| <u>≥ 44</u> | <u>50</u> | <u>5</u> |

(e) [No change in text.]

(f) Parking: In addition to any other incentive, and upon the request of an *applicant*, the City shall apply the following regulations:

- (1) For a *development* that meets the criteria for moderate income in of Section 143.0720(d)(3), the ~~following~~ vehicular parking ratios in Table 143-07D or those set forth below, inclusive of disabled and guest parking, whichever is lower, shall apply:

(A) through (D) [No change in text.]

- (2) For a *development* that meets the criteria of Sections 1423.0720(c) or (e), the ~~following~~ vehicular parking ratios in Table 143-07D or those set forth in Section 142.0527(a)(3), inclusive of disabled and guest parking, whichever is lower, shall apply.

~~(A) The parking regulations set forth in Section 142.0527 shall apply for *dwelling units* that meet the criteria of Section 142.0527(a)(3). If these parking ratios are greater than the parking ratios set forth in Section 143.0740(f)(1), then the parking ratios in Section 143.0740(f)(1) shall apply.~~

~~(B) The parking requirements for all other *dwelling units* within a *development* that do not meet the requirements of Section 142.0527(a)(3) shall be determined in accordance with Section 143.0740(f)(1).~~

- (3) [No change in text.]

- (4) Parking reductions for a *development* providing rental and for-sale affordable housing for *very low income* and *low income* households in accordance with Sections 142.0720(c) and 142.0720(d), or rental housing for senior citizens in accordance with Section 142.0720(e) that meet transit proximity requirements are set forth in Table 143-07D.

Table 143-07D
Parking Reduction for Proximity to Transit

| <u>Type of Development</u> | <u>Percent Affordable</u> | <u>Transit Requirement</u> | <u>Parking Ratio for Development¹</u> |
|---|---|--|---|
| <u>Rental or for-sale development containing market rate and low income and/or very low income dwelling units</u> <ul style="list-style-type: none"> <u>• Very low income</u> <u>• Low income</u> | <p align="center">11%</p> <p align="center">20%</p> | <u>The development shall be located within ½ mile of unobstructed access to a rail station, a ferry terminal served by bus or rail service, or the intersection of two or more bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, or a major transit stop included in the applicable regional transportation plan.</u> | <p align="center"><u>0.5 spaces per bedroom</u></p> |
| <u>Rental housing</u> <ul style="list-style-type: none"> <u>• Low & very low income</u> | 100% ² | | <p align="center"><u>0.5 spaces per dwelling unit</u></p> |
| <u>Rental housing with an affordable housing cost to lower income senior citizens in accordance with California Civil Code Sections 51.3 and 51.12</u> | 100% ² | <u>The development shall have either paratransit service, or be located within ½ mile of unobstructed access to a fixed bus route service that operates at least eight times per day.</u> | <p align="center"><u>0.5 spaces per dwelling unit</u></p> |

Footnotes for Table 143-07D

¹ Parking reductions shall not be subject to the parking regulations of the Transit Overlay Zone and shall not be entitled to parking reductions provided in Section 142.0550 (Parking Assessment District Calculation Exception).

² Exclusive of manager's unit.

§143.0745 Locating Required Affordable Dwelling Units Off-site

A development that complies with the Affordable Housing Density Bonus

Regulations may provide all or a portion of the required affordable dwelling units off-site in accordance with the following:

- (a) Off-site affordable dwelling units shall be located in the same community planning area and City Council District, or within one mile of the premises

of the *development*. The distance shall be measured in a straight line from the *property lines* of the proposed housing *developments*.

- (b) Off-site affordable *dwelling units* that do not meet the locational criteria in Section 143.0745(a) may be approved with a Process Four Planned Development Permit in accordance with Section 126.0604.
- (c) At a minimum, the same number of affordable *dwelling units* required of the *development* must be provided, at the same affordability levels and bedroom mix as the *development*.
- (d) The *applicant*, prior to the issuance of the first building permit for the *development*, shall secure the required number of off-site affordable *dwelling units* and enter into an agreement(s) with the President and Chief Executive Officer of the San Diego Housing Commission establishing the same terms and conditions set forth in Section 143.0720 for similar affordable *density bonus dwelling units*.
- (e) The *applicant*, prior to the issuance of the first building permit, shall record a deed restriction against the *development* that:
 - (1) Documents the required number of affordable *dwelling units* to be provided; and
 - (2) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows:
 - (A) For new *development*, if the affordable *dwelling unit(s)* has not received a certificate of occupancy within 54 months of the issuance of the first building permit.

- (B) For redevelopment of an existing *structure(s)*, if the affordable *dwelling unit(s)* has not received a certificate of occupancy within 36 months of the issuance of the first building permit.

§151.0201 Processing of Planned District Permits

Planned district permits will be processed in accordance with the Land Development Code as follows:

- (a) through (c) [No change in text.]
- (d) A development consistent with Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations) located in a planned district that requires a Process Three planned district permit shall be processed in accordance with Process Two as a Neighborhood Development Permit. The findings required for approval shall be the general findings for Site Development Permits in Land Development Code Section 126.0504(a), any applicable supplemental findings in Section 126.0504, and any additional findings required in the planned district.
- (~~d~~e) Where Section 151.0401 requires a Neighborhood Use Permit, an applicant shall apply for a Neighborhood Use Permit in accordance with Land Development Code Chapter 12, Article 6, Division 1 (General Development Permit Procedures) and Division 2 (Neighborhood Use Permit Procedures). The findings required for approval will be the general findings for Neighborhood Use Permits in Land Development Code

sSection 126.0205 and any additional findings provided in the planned district.

- (ef) Where Section 151.0401 or the planned district requires a Conditional Use Permit, an applicant shall apply for a Conditional Use Permit in accordance with Land Development Code Chapter 12, Article 6, Division 1 (General Development Permit Procedures) and Division 3 (Conditional Use Permit Procedures). The findings required for approval will be the general findings for Conditional Use Permits in Land Development Code Section 126.0305 and any additional findings provided in the planned district.

§156.0309 FAR Regulations and TDRs

- (a) through (d) [No change in text.]

- (e) *FAR Bonuses*

Development may exceed the maximum *base FAR* for the site established by Figure H if the *applicant* provides certain public benefits or *development* amenities. Table 156-0309-A shows the maximum amount of *FAR bonus* that may be earned by providing benefits or amenities, and Figure J shows the maximum *FAR bonus* that may be purchased for a site through the *FAR* Payment Bonus Program (exclusive of bonuses for affordable housing as described in Section 156.0309(e)(1)). *Applicants* utilizing the *FAR bonus* program shall have *CC&Rs* recorded on the property, ensuring that the benefits or amenities provided to earn the

bonus are maintained in perpetuity, or in the case of affordable housing, for the duration specified in Section 156.0309(e)(1)(B)(iv).

The public benefits and *development* amenities that may earn a *FAR bonus* are the following:

TABLE 156-0309-A: *FAR BONUS*

[No change in text.]

- (1) Affordable Housing. An *applicant* proposing a residential *development* that is entitled to a *density* bonus pursuant to Chapter 14, Article 3, Division 7 of the Land Development Code may increase the permitted *FAR* as specified below.

In compliance with the State Density Bonus Law (California Government Code Sections 65915 through 65918), *applicants* may earn *FAR bonus* subject to the following:

- (A) through (B) [No change in text.]

| Table 156-0309-B: FAR BONUSES <u>FAR BONUSES</u> (%) | | | |
|--|---|--|---|
| % Restricted Units in Base (Pre-Bonus) <u>% Restricted Units in Base (Pre-Bonus) FAR</u> | <i>Very Low-Income Rental & For-Sale (0-50% AMI) (Restricted for at least 55 years)</i> | <i>Low-Income Rental & For-Sale (51% - 80% AMI) (Restricted for at least 55 years)</i> | Moderate For-Sale (81% - 120% AMI) (<u>81% - 120% AMI</u>) (Restricted for at least 45 years) |
| 5 | 22 | 10 | 10 |
| 6 | 24 | 15 | 15 |
| 7 | 26 | 20 | 20 |
| 8 | 29 | 25 | 25 |
| 9 | 32 | 30 | 30 |
| 10 or more | 35 | 35 | 35 |

(2) through (8) [No change in text.]

(f) through (g) [No change in text.]

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